



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/874,057	06/06/2001	Takehiro Nishiyama	209396US-2X	5638

22850 7590 03/13/2007
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

RUHL, DENNIS WILLIAM

ART UNIT	PAPER NUMBER
----------	--------------

3629

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
2 MONTHS	03/13/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 2 MONTHS from 03/13/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

MAR 13 2007

GROUP 3600

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/874,057
Filing Date: June 06, 2001
Appellant(s): NISHIYAMA, TAKEHIRO

Robert Pous
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 1/22/07 appealing from the Office action
mailed 9/28/06.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows: The 102(b) rejection in view of Janssen was a 102/103 rejection. The rejection was not just a 102(b) rejection but also

Art Unit: 3629

includes a 103 obviousness statement. Applicant only stated that this was a 102(b) rejection and failed to mention the 103 obviousness rejection.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,754,850

Janssen

5-1998

"United Rentals Inc. Launches Business to Business Equipment E-Rental Store", PR Newswire Association, February 3, 2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claims 17-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

For claim 17, with respect to the language "and under course of or out of operation..", what does the "and under course of" portion intend to recite? Under course of what? It does not make sense to read this portion as "under course of operation"

Art Unit: 3629

because that seems to be already taken care of in the limitation of "rented". What does the language "under course of ?" recite?

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 17-21 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Janssen (5754850).**

For claims 17,18,20,21, Janssen discloses a system and method that relates to *"the field of computer search methods. More particularly the present invention relates to a method and apparatus for searching a database for items satisfying specific features or closely satisfying specific features."* (See the Field of the Invention section of Janssen). Janssen also discloses in column 8, lines 48-54, that the method is contemplated as being performed "on-line" and can be used for purposes other than real estate such as finding a lawyer, finding a loan, or finding an apartment. The examiner takes official notice that apartments are an item that is well known as being

Art Unit: 3629

rented. Janssen recognizes the use of the system and method for apartments, which are rentals. Janssen discloses that the information about available items (items for sale or rent or services available for hire, or whatever the intended use of the system is) is downloaded to a computer by using a modem 270. See figure 2 and column 4, lines 10-11. This inherently requires the use of a first terminal as claimed and satisfies the functional language relating to the 1st terminal. One must necessarily have a first terminal that communicates with modem 270 to update the information on file. The 2nd terminal is also considered inherent because Janssen discloses that the invention can be done "on-line". This requires that the customer desiring a rental has a 2nd terminal that they use to submit the search query describing what they want as far as a rental goes (or whatever the system is being used for and whatever you are searching for). The network server is 200 and the means for holding data is database 210. The database 210 holds data relating to whatever the system is being used for. This includes data such as specification (kind of apartment, 1 bedroom, 2 bedroom, etc.); location; and time period (when is apartment needed or how long of a lease is desired?). This kind of information necessarily is involved in the rental process for apartments. If apartments are listed the data will include the kind of apartment, location, and availability. The "means for searching" is the software disclosed in column 4, lines 2-4. The means for providing a searched result is present in Janssen because it is disclosed that the results are given to the customer. After all that is the reason you are using the system anyway, to get results to your search. With respect to the "means for providing the second terminal with the information" related to the search result, this is

Art Unit: 3629

interpreted to be the hardware/software that allows the searched result to be sent to the 2nd terminal. This can include a modem and the modem driver software that would allow the data related to the search result to be transmitted to the customer at the 2nd terminal. With respect to the kind of data being claimed (i.e. whether the item is rented, under course of negotiations, under course of ??, or out of operation) and how it is presented, this data is not actually being positively recited in the claim because it is directed to the intended use of the system. In other words, the kind of data claimed is just the data that is intended to be sent to the 2nd terminal by the recited "means for providing the second terminal" with the search result. The fact that the result is in the form of a calendar does not matter and is not part of the scope of the recited means language, because the claimed "means for providing the second terminal with the information" is covering the structure that provides the search result data to the 2nd terminal, nothing more. However, the result in Janssen for the example of an apartment would include whether or not the apartment is rented or vacant. The examiner further notes that the data related to the search result is directly dependent on the kind of data you are searching (what are you looking for, a lawyer, an apartment, a loan, etc.) and would naturally flow from the intended use of the system. In Janssen it is disclosed that the user can specify certain search criteria as being primary and others as non-primary. This satisfies the claimed limitation of having an option that allows the identification of a preferred option for one of the search criteria. Janssen discloses this feature. Janssen searches for the primary features first and will then search the results for the non-preferred options. With respect to the fact that the claims are reciting that the system is

Art Unit: 3629

for the renting of a construction machine and the kind of data the search result is intended to produce, this is directed to the intended use of the system and must result in a structural difference when compared to the prior art. In this case there is no difference between the prior art. The fact that the data for location, specification and time period are intended for or describe construction machines does not define over the same kind of data that would be used for apartments. The data involved in construction machines and apartments is the same, namely, location, specification (kind of apartment), and time period. The fact that the data is relating to construction machines is not important because the data variables themselves are disclosed in Janssen and are dependent on the intended use of the system. If you are looking for a loan, the result of the search request would include data relevant to loans. If you are looking for a lawyer, the result of the search would include data relevant to lawyers. Additionally, the language describing that the 2nd terminal is "configured to enable" the inputting of certain information (search criteria) is very broad and is really just claiming that the terminal is capable of allowing input of data and this is not claiming the data as being stored in a positive sense. Any computer with an input device such as a keyboard is capable of inputting any kind of information you desire.

With respect to the limitations directed to the data that is able to be inputted into the system and searched by the system, the examiner has two comments. The first is that the language "configured to enable" only means that the terminals must be capable of allowing one to enter data. This does not mean or require the claimed type of data. The data is just the intended use of the system. Second comment is that data is data,

Art Unit: 3629

and claiming that certain data that represents construction machines is being searched or is able to be inputted is not defining anything further to the system in a structural sense.

In the alternative, under section 103, if one decided that Janssen did not disclose the same structure that the claimed “means for providing the second terminal with the information related to the construction machine for rent as a calendar” covers, and one interpreted this language to require Janssen to disclose a calendar format for a search result to be a proper rejection, the examiner offers the following comments. The use of calendars to display data relating to rental items is old and well known. Rental agencies that rent out homes have for a long time used calendars to show when certain homes are rented, vacant, or just not available. A calendar is a very useful format for displaying information when the issue of time and dates is involved. One of ordinary skill in the art at the time the invention was made would have found it obvious to display the search result by using a calendar format, because this format is well known to be very useful to display information when dates and time are involved, such as the dates when something is available or not available. A calendar is a very well known tool that allows one to display information and relate that information to dates and time. One of ordinary skill in the art would have recognized this and this is something that is within the knowledge that one of ordinary skill in the art would possess. The examiner also notes that the issue of the use of a calendar for the search results was set forth as being obvious in the very first office action in this case with respect to original claim 11,

Art Unit: 3629

and applicant failed to provide any rebuttal to this issue as was required by 37 CFR 1.111 if applicant disagreed with the position of the examiner.

For claim 19, reciting what the machine is that is for rent defines nothing further to the claimed system. The kind of machine is directly related to the intended use of the system and what the item is that is being rented. Janssen satisfies what is claimed because this claim defines nothing further to the system of claim 17.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 17-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Janssen (5754850) in view of the newswire article of 2-3-2000 "United Rentals, Inc. Launches Business to Business Equipment E-Rental Store". In this rejection the examiner is giving much more weight to the intended use of the system than in the 102 rejections to more fully address the actual intended use recited. The examiner also has addressed the issue of the use of a calendar in two manner, one where Janssen satisfied this limitation and one were it is addressed via section 103.**

For claims 17,21, Janssen discloses a system and method that relates to *"the field of computer search methods. More particularly the present invention relates to a*

Art Unit: 3629

method and apparatus for searching a database for items satisfying specific features or closely satisfying specific features.” (See the Field of the Invention section of Janssen).

Janssen also discloses in column 8, lines 48-54, that the method is contemplated as being performed “on-line” and can be used for purposes other than real estate such as finding a lawyer, finding a loan, or finding an apartment. The examiner takes notice that apartments are an item that is well known as being rented. Janssen recognizes the use of the system and method for apartments, which are rentals. Janssen discloses that the information about available items (items for sale or rent or services available for hire, whatever the intended use of the system is) is downloaded to a computer by using a modem 270. See figure 2 and column 4, lines 10-11. This inherently requires the use of a first terminal as claimed and satisfies the functional language relating to the 1st terminal. One must necessarily have a first terminal that communicates with modem 270 to update the information on file. The 2nd terminal is also considered inherent because Janssen discloses that the invention can be done “on-line”. This requires that the customer desiring a rental has a 2nd terminal that they use to submit the search query describing what they want as far as a rental goes. The network server is 200 and the means for holding data is database 210. The database 210 holds data relating to whatever the system is being used for. This includes data such as specification (kind of apartment, 1 bedroom, 2 bedroom, etc.); location; and time period (when is apartment needed or how long of a lease is desired?). This kind of information necessarily is involved in the rental process for apartments. If apartments are listed the data will include the kind of apartment, location, and availability. The “means for searching” is

Art Unit: 3629

the software disclosed in column 4, lines 2-4. The means for providing a searched result is present in Janssen because it is disclosed that the results are given to the customer. After all that is the reason you are using the system anyway, to get results to your search. With respect to the "means for providing the second terminal with the information" related to the search result, this is interpreted to be the hardware/software that allows the searched result to be sent to the 2nd terminal. This can include a modem and the modem driver software that would allow the data related to the search result to be transmitted to the customer at the 2nd terminal. The fact that the result is in the form of a calendar does not matter and is not part of the scope of the recited means language, because the claimed "means for providing the second terminal with the information" is covering the structure that provides the search result data to the 2nd terminal, nothing more. In Janssen it is disclosed that the user can specify certain search criteria as being primary and others as non-primary. This satisfies the claimed limitation of having an option that allows the identification of a preferred option for one of the search criteria. Janssen discloses this feature. Janssen searches for the primary features first and will then search the results for the non-preferred options.

Not disclosed in Janssen is that the system and method is used renting of construction machines.

The newswire article discloses that United Rentals has opened on "on-line" E rental store for renting of equipment such as construction equipment, heavy machinery, and other types of equipment. Because Janssen discloses that the system and method can be used for things such as searches for *"home loans, schools, doctors, cars,*

Art Unit: 3629

apartments, vacation packages, lawyers, and CPA's" and the system can also be used "on-line", it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the system of Janssen for the rentals of equipment such as construction equipment and machines, as the newswire article discloses. The system of Janssen can be used for any kind of activity where searching for something is involved. One of ordinary skill in the art would find the use of Janssen obvious for construction machines in view of the fact that United Rentals is renting equipment "on-line". The recited intended use of the system is a choice that is obvious to one of ordinary skill in the art. With respect to the search result, when one of ordinary skill in the art is using the methodology and system of Janssen with construction machine rentals, one of ordinary skill in the art would appreciate or understand that the results would contain data such as whether or not the available (rented or vacant or out of service at the present time, etc.) The examiner feels that the claimed data would naturally flow from the fact that the intended use of the system is for the rental of construction machines.

For claim 18, Janssen discloses upper location information which is the entered zip code. This defines an area or a location. The lower location information is a location such as "near the ocean" or "walking distance to public transportation". These are both locations within the more broad location defined by the zip code. In Janssen the zip code is a preferred search term (primary) and the features such as being near the ocean or near public transportation are disclosed as being non-preferred search criteria. Janssen searches as has been claimed.

Art Unit: 3629

With respect to claim 19, the recitation that the machine is a tracklaying machine is defining nothing further to the system and is satisfied by Janssen. The construction machine is what is being rented and is not part of the system. At best, this limitation is non-functional descriptive material that just describes what the item is that is being rented. Additionally, when one is using the system of Janssen for the rental of construction equipment as the 103 rejection does, one of ordinary skill in the art would appreciate that this includes machines such as a tracklaying machines.

For claim 20, Janssen discloses what is claimed because the information about what is available (specification information) can be searched as claimed. The user can specify that they are looking for an apartment (upper class), and then further specify that they want a two-bedroom apartment (lower class). This is information in hierarchal form. This satisfies what is claimed. The language about the data defining something that is easy to change or not easy to change is just descriptive about the data itself and gets minimal weight.

With respect to the use of a calendar, in the alternative, under section 103, if one decided that Janssen did not disclose the same structure that the claimed "means for providing the second terminal with the information related to the construction machine for rent as a calendar" covers, and one interpreted this language to require Janssen to disclose a calendar format for a search result to be a proper rejection, the examiner offers the following comments. The use of calendars to display data relating to rental items is old and well known. Rental agencies that rent out homes have for a long time used calendars to show when certain homes are rented, vacant, or just not available. A

Art Unit: 3629

calendar is a very useful format for displaying information when the issue of time and dates is involved. One of ordinary skill in the art at the time the invention was made would have found it obvious to display the search result by using a calendar format, because this format is well known to be very useful to display information when dates and time are involved, such as the dates when something is available or not available. A calendar is a very well known tool that allows one to display information and relate that information to dates and time. One of ordinary skill in the art would have recognized this and this is something that is within the knowledge that one of ordinary skill in the art would possess. The examiner also notes that the issue of the use of a calendar for the search results was set forth as being obvious in the very first office action in this case with respect to original claim 11, and applicant failed to provide any rebuttal to this issue as was required by 37 CFR 1.111 if applicant disagreed with the position of the examiner.

(10) Response to Argument

Applicant has argued that the 112,2nd paragraph rejection is improper and that claim 17 is not indefinite. The language at issue in claim 17 reads as follows:

"the rental situation including whether the construction machine is rented, vacant, under course of negotiations and under course of or out of operation at least during a period corresponding to the rental period inputted through the second network terminal,"

The above claim language concerning the rental situation includes more than one situation. The rental situations are "rented", "vacant", "under course of negotiations" and "under course of or out of operation". The last situation of "under

Art Unit: 3629

course of or out of operation" does not make any sense. Under course of what? The claim language reads "under course of or out of operation". The use of the word "or" means that there are two things being recited, one being "under course of" and the other being "out of operation". It is not known what is meant by "under course of". Applicant has argued that this language refers to "in course of maintenance". This is not persuasive because the claim makes no mention of any maintenance occurring. Applicant has argued that "the specification clearly provides support and defines the phrase "in course of out of operation." This is not what is claimed. The claim recites "under course of or out of operation". Applicant has argued the claim language as if the word "or" were not in the claim. The argument does not seem to be commensurate with the actual claim language that the examiner is referring to. The argument is found to be non-persuasive.

With respect to the 112,2nd rejection and the second reason that the claim is rejected, upon a further review by the examiner it has been determined that this portion of the rejection was mooted by the amendment to the claims on 8/18/06. It appears that the examiner inadvertently left this portion of the rejection in the office action when it should have been removed. The only issue that needs to be addressed by the Board of Patent Appeals and Interferences under 35 USC 112,2nd is the issue concerning the language "under course of or out of operation".

With respect to the argument concerning the 102(b) rejection or alternatively the 103 rejection in view of Janssen, the argument is not persuasive. Applicant has argued that Janssen does not disclose a "*means for providing* the second network terminal with

Art Unit: 3629

the information related to the construction machine for rent as a calendar...., etc.”.

Applicant has argued that this claim language is a 112,6th limitation and that the examiner does not have the identical means or equivalents thereof that are disclosed in the specification. In the “Summary of the Claimed Subject Matter” section of the Appeal Brief, applicant has cited Figures 5-7, page 6, lines 2-6; page 11, lines 9-12; and page 16, lines 14-22 when discussing the “means for providing limitation”. Figures 5-7 make no mention of a “means for providing” and do not lead one to reasonably conclude that the means for providing is what has been argued. The cited portion of page 6 discusses the kind of network that is used to transmit and receive data, including the Internet. This portion of the specification makes no mention of a “means for providing” and has not discussion at all as far as a calendar goes. At best, the cited portion of page 6 would lead one to believe that the “means for providing” is just a network such as the Internet, an interpretation very similar to the examiner (data transmission hardware/software). Page 6 does not support or make reasonably clear to a reader that the language “means for providing” has some specific structure. The word “provide” or “provided” or “providing” does not even appear in this cited portion of the specification. The cited portion of page 11 discusses the act of displaying the search results and makes no mention of any providing step. At best this portion of the specification would be reasonably construed to be disclosing a “means for displaying” search result data. The cited portion of page 11 does not deal with the act of “providing” anything because it discusses displaying. The cited portion of page 16 does not mention the providing of anything at all. The examiner does not feel that the cited portions of the specification

Art Unit: 3629

regarding the “means for providing” provide support for the 112,6th claim language interpretation that applicant is setting forth. When considering a 112,6th limitation the specification must make it reasonably clear as to what the corresponding structure is that would be covered by the means plus function language (as well as any equivalents). With respect to the limitation of a “means for providing..”, one would not reasonably conclude that the portions of the specification that deal with networks, or with the displaying of search results have anything to do with a means for providing. One would very reasonably assume that the portions of the specification that actually discuss the providing of data or that contain the word “providing” or “provides” would be relevant to the limitation of “means for providing”. The claim language at issue reads: *“means for providing the second network terminal with the information related to the construction machine for rent as a calendar displaying information related to the rental situation of the construction machine for rent, the rental situation including...”*. The claim language is reciting a “means for providing” certain information to the 2nd terminal. The “means” for providing the search result to the 2nd terminal is just providing the data that was already created and formatted by another element of the device. Keeping in mind that the presently pending claims are apparatus claims, the examiner construed this limitation to be covering or reading on structure such as the hardware and software that “provides” the information to the 2nd terminal (i.e. a modem and associated software). The fact that the information to be provided is in the form of a calendar is noted but this is referring to the intended use of the “means for providing”

Art Unit: 3629

structure. The software that creates the calendar is not capable of providing anything to the 2nd terminal, that is what the hardware and software that allow data transmission do.

The examiner also notes that claim 17 originally contained the language “*means for providing a searched result* by the searching means to the second network terminal through the network”, see claims as of 7/14/05. This claim language recited the “means for providing” as simply providing a search result with no mention of a calendar. Now applicant is more or less arguing that the “means for providing” is specifically limited to the presentation of a calendar, which is not in agreement with the earlier claim language concerning the same limitation of a “means for providing”. The structure covered by the means for providing language has not changed from the claim version on 7/14/05 to the currently pending version. Both are referring to the same structure, namely the means for providing the 2nd terminal with information (i.e. modem, hardware/software that allow data transmission to occur).

The examiner has construed the term “means for providing” in its broadest reasonable sense. One must ask the question, what is the structure that provides the 2nd terminal with search result information (in a calendar format)? The search result information has already been compiled or generated, and the act of providing the 2nd terminal with the information is done by the hardware and software that allow data transmission to occur (i.e. a modem and associated software). The examiner believes that his interpretation of the language “means for providing” is proper and is commensurate with the guidance and disclosure given in the specification. Because the specification never explicitly set forth what the corresponding structure is that is covered

Art Unit: 3629

by the "means for providing", the examiner gave this term its broadest reasonable interpretation, where that interpretation was not disputed or contradicted by any teaching of the instant specification. The examiner takes the position that the language "means for providing" is satisfied by the hardware and software of Janssen that allows the searched result to be sent to the 2nd terminal. This can include a modem and the modem driver software that would allow the data related to the search result to be transmitted (provided) to the customer at the 2nd terminal. The fact that the result is in the form of a calendar does not matter and is not part of the scope of the recited means language, because the claimed "means for providing the second terminal with the information" is covering the structure that provides the search result data to the 2nd terminal, nothing more.

With respect to the alternate 103 rejection in view of the Janssen reference alone, applicant addresses the obviousness statement from the examiner by stating "*the Office Action merely asserts that the use of calendars to display data relating to rental items is old and well-known. No evidence to that effect is offered. To the extent that the Examiner is using Official Notice, this assertion is respectfully traversed.*" Applicant has not set forth any basis for a traversal. Applicant cannot traverse a rejection without pointing out or explaining why the rejection is not proper. The examiner has set forth an obviousness rejection and stated why the limitation is considered to be obvious. Applicant needs to point out why the rejection is disagreed with. Applicant has never even actually stated that they disagree with the examiner in that the use of calendars to display information concerning rental items is well known to one of ordinary skill in the

Art Unit: 3629

art. Applicant's traversal is taken as nothing more than a general allegation of patentability because no explanation has been provided to the examiner explaining why the rejection is not proper.

While not a reason to find a traversal non-persuasive (because the entire record must be considered when considering an Appeal Brief and the arguments therein), the examiner also notes that the issue of the use of a calendar for the search results was set forth as being obvious in the very first office action in this application with respect to original claim 11, and applicant failed to provide any kind of rebuttal to this issue as was required by 37 CFR 1.111. Because 37 CFR 1.111 requires applicant to point out "the supposed errors" in the office action, and because applicant failed to traverse this limitation and the obviousness rejection from the examiner on more than one occasion, the examiner concluded that the rejection was proper. The examiner stated that the use of a calendar was considered to be obvious in the office actions of 6/30/04, 1/31/05, and applicant never traversed the position of the examiner. Now all of the sudden applicant is attempting to introduce a traversal for this limitation, which does not seem to be in compliance with 37 CFR 1.111.

With respect to the 103 rejection of Janssen in view of "United Rentals, Inc. Launches Business to Business Equipment E-Rental Store", applicant has argued that:

"With respect to the rejection of Claims 17-21 under 35 U.S.C. § 103(a), neither Janssen nor United Rentals Inc. disclose means for providing the second network terminal with the information related to the construction machine for rent as a calendar displaying information related to the rental situation of the construction machine for rent,

Art Unit: 3629

the rental situation including whether the construction machine is rented, vacant, under course of negotiations or out of operation at least during a period corresponding to the rental period inputted through the second network terminal as in amended independent Claim 17."

With respect to the argument concerning the "means for providing", the examiner refers to previous comments regarding Janssen. The secondary reference article is not being used to provide the "means for providing" to Janssen, so this argument is not persuasive for the same reasons the examiner has already set forth previously in this Examiners Answer.

Applicant has further argued that the 103 rejection does not disclose information related to the construction machine such as "under course of negotiations" or "under course of or out of operation" (indefinite under 112,2nd). The examiner feels this is not commensurate with what is claimed. All that is claimed is a "means for providing" where the kind of data being provided is directed to the intended use of the system. The data that applicant is arguing does not even make up a structural part of the claimed system, it is just the data that the system is intended to be used with. At any rate, Janssen teaches that the system and method can be used for things such as searches for "home loans, schools, doctors, cars, apartments, vacation packages, lawyers, and CPA's", see column 8, lines 48-54. The examiner used the cited NPL article to teach that the system of Janssen can be used with construction equipment rentals, which is known to be conducted online as taught by the article. When one is using the system of Janssen for loans, the data involved in the searches and the search results will be pertinent to

Art Unit: 3629

loans. When the system of Janssen is used for schools, the data involved in the searches and the search results will be pertinent to schools. When looking for a lawyer, the data involved in the searches and the search results will be pertinent to lawyers.

The kind of data used and displayed as far as search results go are related to the intended use of the system (i.e. loans versus schools versus lawyers). The examiner feels that from the 103 combination and using the system of Janssen with construction machine rentals, one of ordinary skill in the art would readily recognize that the data involved will be related to construction machine rentals, which satisfies what is claimed.

With respect to the statement that the calendar is not taught by the rejection, the examiner refers to his previous comments concerning this issue and the fact that this was stated as being obvious in the first office action and was never traversed by applicant until now.

Applicant's arguments are found to be non-persuasive.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

Art Unit: 3629

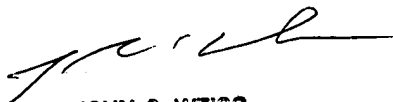
For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

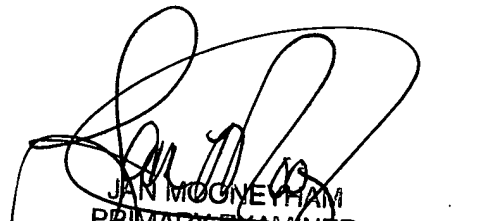


DENNIS RUHL
PRIMARY EXAMINER

Conferees:



JOHN G. WEISS
SUPERVISOR PATENT EXAMINER
TECHNOLOGY CENTER 3600



JAN MOONEYHAM
PRIMARY EXAMINER
TECHNOLOGY CENTER 3600